

JEFFERSON COUNTY COMMISSIONERS  
COURTHOUSE, BOX H  
BOULDER, MT 59632  
PHONE 406-225-4025  
FAX 406-225-4148

TOM LYTHGOE, CHAIR

KEN WEBER

DAVE KIRSCH

**PROCEEDING OF THE BOARD OF COMMISSIONERS  
COUNTY OF JEFFERSON, STATE OF MONTANA  
January 13, 2009**

**Present:** Commissioners Lythgoe, Weber and Kirsch; Bill Lloyd, Great West Engineering; Tara Mastel and Tom Harrington, JLDC; Greg Dahl, Ron Greenwood, Rock Jackson, Jim Maus, Steve Giard, Mark Trudeau

**MINUTES**

Commissioner Lythgoe moved to adopt the minutes of December 30, 2008. Commissioner Kirsch seconded. The motion carried.

**REPORTS**

Receipt of county fuel tax allocation for January.

Receipt of December expense and revenue reports from the Clerk and Recorder.

**CALENDAR REVIEW**

- 1/13 Meeting with Maren Olsen - Rehberg's office - 11:00
- 1/14 JLDC - Whitehall - 2:00
- 1/15 CTAC - Whitehall - 8:00
  - Meeting regarding coordination with Beaverhead-Deerlodge National Forest - 11:00
  - Clancy Library subcommittee - 6:00
- 1/16 Ash Grove Citizen Advisory Committee - 8:00
- 1/19 Holiday - County offices closed
- 1/20 Fire Council - Clancy - 6:30

**CORRESPONDENCE**

January 13, 2009 minutes.wpd

Bill Lloyd of Great West Engineering spoke to the South Holmes Gulch RMD. The residents do not want a RSID, only a RMD. Residents have requested so that they may plow, gravel, install some drainage improvements, etc. They have a messy road that is below grade, with no crown and that needs three or four culverts. In order to make things more affordable and considering the small scale of the project, they are requesting to the Commission for a loan to the RMD to be paid back over time to allow for the initial maintenance to the road. The loan will be paid back over 1, 3 or 5 years, at the Commission's choosing. Bill noted that there has been some precedent of the county making a loan to a RMD. He is looking for feedback from the residents as to an acceptable payback period and interest rate. Commissioner Lythgoe said that he is guessing that the one year period is the least desirable. Bill said that the residents have expressed an interest in the five year payback, but he is aware that some will be paying off the entire amount all at once. Commissioner Weber said that he met with Frank Stock earlier this week, who has bid on some bonds in the past and would like the option to in the future. There might be an option for the loan to come from another source with attractive interest rates. Bill said that he would need to explore this further; he knows that you cannot bond against a RMD. It may be possible for them to pursue a loan; he is not sure of the legalities of that. Commissioner Lythgoe said that he thinks that this could happen. Mr. Stock works for a bank in the Bitterroot Valley. Bill said that he would just need some advice on how to draw up the contract. If it were a RSID it would be a no-brainer. With a RMD, you can only spend the money as fast as you bring it in. Because of past precedent, they are asking the Commission to front the money that will be repaid in a short period of time. Commissioner Lythgoe said that they will look at both of these options.

Commissioner Lythgoe noted the receipt of a petition to annex adjacent territory into the Montana City Fire District. The Clerk and Recorder has certified the petition and the petition has been approved by the Fire District.

Commissioner Lythgoe noted an e-mail from Bonnie Ramey stating that the DOR cadastral maps may not be up-to-date for property ownership. She said that people need to check with the Clerk and Recorder's office for the most current information.

Commissioner Lythgoe read an e-mail from Bonnie Ramey asking where to pay the road maintenance fees for the county's RMD fees. Commissioner Lythgoe said that he would suggest that the park fees be used. Commissioner Weber moved to pay the RMD fees from the park fund on a yearly basis. Commissioner Kirsch seconded. The motion carried.

Another e-mail from Bonnie asked about the Saddle Mountain RID pay-off for the county park. Commissioner Weber moved to pay \$5,586.00 from metal mines planning money. Commissioner Kirsch seconded. The motion carried.

## **COMMISSION REPORTS**

### **WEED RE-CERTIFICATION**

Commissioner Kirsch reported that he attended a weed recertification meeting at the fairgrounds on Wednesday.

## BOULDER HOUSING AUTHORITY

Thursday night attended the Boulder Housing meeting.

## LIBRARY BOARD

Commissioner Weber reported that the library board met. There is still a lot of uncertainty around the librarian position. They decided to allow the part-time staff to work full-time to fill in until something has been decided.

## ROAD ISSUE

Commissioner Weber reported an issue up Whitetail Road on Thursday. This issue turned out not to be a county issue, but something that will need to be addressed on a personal basis.

## RSID BONDS

Commissioner Weber reported that the previous day he met with Frank Stock regarding bonds. Frank gave him some papers indicating that Lake County and some of the cities up in that area do their own rather than retaining bond counsel. They do the paperwork, etc. from a boilerplate and through their attorney's office. He has presented this to Matt, but he hasn't heard back yet.

## TRI-CO FIRE WORKING GROUP

Commissioner Lythgoe reported on tri-county fire group. This group is a model of what should happen in the rest of the fire world and they are getting a lot of people looking at it. They are getting ready for the coming fire season. Forest service was at the meeting and discussed cutting trees along forest service roads and leaving areas for firewood harvesters.

## ITEMS FOR COMMISSIONERS ACTION OR REVIEW

### PUBLIC HEARING – FORMATION OF MOONLIGHT RIDGE RSID/RMD

Commissioner Lythgoe opened the public hearing and called for comment.

Bill Lloyd, Great West Engineering, stated that the public protest period ended on January 6<sup>th</sup>, and this is the public hearing to be held at the first Commission meeting after the protest period ended. Bill noted that eight protests had been received for the Jackson Creek Road portion and two were received for the Moonlight Ridge portion. It has come to their attention that two landowners were not notified during the protest period. The reason for this is that the 2007 tax rolls were used for the mailing. When the discussions were initiated for the district they still were using the 2007 tax rolls. By the time the resolution of intent was adopted the tax rolls had been updated, but the 2007 tax rolls were used to develop the mailing list. Upon advice of the bond counsel, that can be considered grounds for reissuance of the district; this is something for the Commissioners to keep in consideration. Bill went over the proposed updates.

Commissioner Lythgoe asked Bill, comparing where the RSID would stop as written versus going all the way up Jackson Creek and through Jack Mountain, did he say that there is a slight benefit to the homeowners as it exists. Bill said that this is correct. What was sent out \$1800 per parcel to improve that portion of Jackson Creek Road and there would be a slight savings to break it up.

These aren't significant changes, but this was taken into consideration when the changes were considered.

Commissioner Weber said that he remembers one of the protest letters stated that they didn't receive the notification, and was apparently informed by a neighbor. He asked what the bond counsel had to say about this. Bill stated that one of the people who didn't receive a protest package did file a protest. Bond counsel was concerned about this, but as they filed a protest, they felt that we could defend the RSID. They were more concerned that the other person, who didn't get a protest package and didn't file a protest, could invalidate the process. Ultimately it is the decision of the Commission, but the bond counsel suggested that the Commission may need to adopt the resolution again and start the protest process over again.

Commissioner Lythgoe called for comments.

Greg Dahl, Moonlight Ridge, presented the Commission with a handout and said that he appreciated the opportunity to express his concerns. He stated that he and his wife have no objections to the assessment for the upgrade to Jackson Creek Road. The handout showed an emergency access from Moonlight Ridge, which was originally the access road, but is now used only for emergency ingress/egress. They believe that the improvements inside the Moonlight Ridge subdivision will be beneficial to those residents, but they don't believe that they will personally get any benefit so would respectfully request that they be excluded from the assessment. Commissioner Lythgoe stated that he did speak to one of the homeowners in Moonlight Ridge and he indicated that in the covenants it was indicated that the developer would not protest any RID/RMD that took place in the subdivision. Greg stated that this states that the residents of Moonlight Ridge will not protest any SID, etc. He lives on a separate parcel and the covenants don't apply to him. He wrote the covenants, and it certainly wasn't his intent that he and his wife waived their right to protest in regards to the land that they live on versus the people that live in the subdivision.

Rich Jackson stated that he wrote a letter this summer and voiced some concerns regarding this district, and they also wrote a letter January 4 protesting the creation of the RSID. He asked if the Commission or Great West could answer some of the questions that they have. He stated that none of them were contacted about this and all are against the creation of the district. Their major concern is that Warren Mountain Road is only about a third of the distance and feel that the assessment should be pro-rated. He also asked how they came to the decision of who would be included. Commissioner Lythgoe said that Bill has already spoken to this somewhat. In their discussions in what they were going to do, there were three subdivisions, Warren Mountain, Moonlight Ridge and Jack Mountain, which would benefit from this RID. At that time, they were going to combine, at least for construction purposes, Warren Mountain and Moonlight Ridge. It ended up being to their benefit, economically, to split it out the way they did. It would have cost more to combine all. Rich asked if they would be included if the road was ever improved beyond Jack Mountain. Commissioner Lythgoe stated that they would not. Commissioner Lythgoe said that when you set up a district, by law everyone who benefits has to be included in the district.

Bill stated that in regards to Mr. Jackson's comments, they drug this through the mud numerous times with their bond counsel. They rely heavily upon legal advice in forming these, and who is

and is not benefited so that they can follow the Montana Code as closely as possible. He will be the first to admit that the RID/RMD process is not a perfect process, but it is all we have to improve county roads. They looked at it in the past and evaluated breaking up every assessment by road and even by parts of a road and just adding up assessments and the poor fellow that lives at the end of the road ends up paying 20 to 30 times what the person at the beginning of the road pays. In working with the bond counsel, they found that the best mechanism that they have is the per parcel assessment. Also, regarding Mr. Dahl's earlier comments that he does not access on Moonlight Ridge Road, they knew that, but their bond counsel was very adamant that given the frontage that his property has to Moonlight Ridge Road, that he couldn't allow them to not include him in the RID/RMD.

Mark Trudeau, President of the Moonlight Ridge Homeowner's Association, said that when the initial cost estimates were given, it was when the cost of oil was much higher. He asked if anything is going to change on that. Bill answered that his best answer is that he would expect the cost of oil to come down, but not the cost of chips. They may get a better cost on equipment, as the cost of oil is down. He keeps in close contact with Montana Refining, and they can't give any estimates. He hopes to see some savings. Bill also noted that they try to keep their bids conservative because if the bids come in higher than what the residents have approved, the project cannot move forward.

Mark then presented a copy of the covenants. The homeowners feel that the Dahls do benefit from the improvements to the road because of the expansion of lots that could be put in after the road is paid for.

Ron Greenwood stated that he lives in Warren Mountain. Thanked for the opportunity to get some clarification on the issues. One concern with formation of Jackson Creek district, and he is in favor of improving Jackson Creek Road, in the formation of the district, they are concerned in extending it up to Jack Mountain. Even if the road is only improved up to Moonlight, they would be liable for the improvements up to Jack Mountain. Commissioners Lythgoe and Weber stated that this is incorrect. Bill explained that the way the boundary is situated is to include the entire portion of any parcel that will be assessed for the district. There are several parcels that extend up to Jack Mountain, but the hard surfacing and improvements proposed to Jackson Creek Road would end immediately past the Moonlight Ridge Road intersection and that would be the extent of the maintenance that would be on their assessment in years to come. Now, should the road be improved in a future RID, they would not be assessed for anything above Moonlight Ridge Road. Ron stated that he spoke to a resident that indicated that they will be having a meeting in the near future to discuss doing Jackson Creek Road for Jack Mountain. He asked that if they decide to do this, can the districts be overlapped for some cost sharing. Bill said that this can be done, and is one item that was discussed with the bond counsel. Ron said that he didn't see it in the legal proposal where it specifically states that they will go 8 feet past the entrance, it isn't explained and he is a little uneasy about that. Bill said that it was not clearly stated in the protest package, but it is their intent to take it up just past the intersection of Moonlight Ridge Road and terminate it at that point and also it would be the terminus of any maintenance project. Ron said that on the proposal, there is still the possibility of doing Jackson Creek just for each of the four developments, and break it down for each. Bill stated that this was a means of assessments that was looked at, and deemed not feasible. In working with the bond counsel, the Commission, the Road Department, their own judgment, they opted to keep Jackson Creek as a complete project.

However, it could be considered. Ron said that this was his biggest concern, the fairness of it. Bill said that he understands and, once again, these are very difficult to come up with a solution that is most equitable to everyone. Ron said that he is uneasy with how the two districts can overlap without explicitly defining this in the initial documents.

Steve Giard stated that he has submitted a protest letter. The biggest reason he protested the district is the process that took place. He feels that Warren Mountain was really left out of the process and the decision making, such as the decision to do a chip seal rather than a 3-inch lift of asphalt. He said that he drives on South Hills just as much as he does on Jackson Creek, and he doesn't pay for maintenance. He pays county road taxes. He is not sure why he has to pay for maintenance on this section of road and not for the road in front of the Montana City School. He isn't in favor of these improvements. He moved to the county and doesn't expect to have paved roads. Those who want paved roads should move back to the city.

James Maus, 6 Warren Mountain Court, stated that he is in opposition of this RID. He said that the Commission has already addressed some of his concerns regarding the equitable nature of this. He feels that the items discussed at this meeting should be included in the documents, such as where the improvements will end, how wide they will be, the possibilities of RMDs to overlap. He agrees with the previous speaker. He already pays taxes, and he doesn't want to be taxed twice. He said that it is his understanding that subdivision roads are private roads and if the residents wish to improve the roads, it should remain within the subdivision. Commissioner Weber clarified subdivision roads. He stated that in the process of creating a subdivision, the roads actually become public roads. This doesn't mean that they are county roads, however.

Hearing no further comment, Commissioner Lythgoe closed the public hearing.

#### RESOLUTION TO CREATE MOONLIGHT RIDGE RSID/RMD

Commissioner Lythgoe stated that the next order of business is to adopt a resolution forming the RID/RMD.

Commissioner Weber stated that he has a pretty strong concern that not all of the landowners were notified and had a chance to comment. One of the people overlooked did apparently hear from a neighbor and make a comment, but the fact that the other person was silent concerns him also. It makes him think that we probably did miss that person by using an old tax roll list. It is unfortunate that the state's tax rolls were not updated fast enough. The advantage to the RID process is that everyone involved has the opportunity to comment and be a part of the decision. It is a majority rule thing, and it is the nature of a majority rule that some will win and some will lose, but everyone needs the opportunity to comment. Second, to address the fact that Warren Mountain did send out a letter and it wasn't followed up on. The Commission reviewed the letter and it was to have been given back to Commissioner Lythgoe, but was inadvertently filed. He apologized for this happening. This should have gotten to the engineer and been addressed way before this meeting.

Commissioner Lythgoe stated that he too has some concerns that everyone was not properly notified. Even if our bond counsel didn't recommend that the process be repeated, he would want to do this.

Commissioner Lythgoe moved not to adopt the resolution at this time, that they instruct Great

West and the bond counsel to put together new documentation regarding this RID/RMD and that it be sent out again and make sure that all residents living in that district receive the information. Commissioner Weber seconded. The motion carried. Commissioner Lythgoe thanked everyone for attending and for their comments and said that they will be getting something in the mail in the near future.

#### JLDC UPDATE

Tom Harrington gave updates of what the JLDC has been working on. At the south campus, they have been working on updating the sewer system. The project ties into a project that the city of Boulder is working on that involves water and sewer lines. Stahly Engineering has drawn up a cost share for the development of the plan. A follow-up meeting is scheduled for January 26<sup>th</sup>. The timing of this is critical, with the talk of the stimulus package and the need for “shovel ready” projects. They are also working to replace some carpets in building 7.

The Golden Sunlight Business Park is moving forward on the master plan grant through the Big Sky Trust Fund. They are meeting with key stakeholders discussing the overall park concept. The DEQ waste water permit is currently in the public comment period, which closes the end of the month. After this there will be about a month for comment review and then they should have a decision. Another thing they are working on with the Sunlight Business Park is finalizing a utility easement corridor. They have a meeting with the Barrick lands manager to take a look at the corridor for the sanitation line and the water line and answer some of the questions that DEQ had on that and get some final surveys done.

Tom said that some good news is the EDA Infrastructure grant. They went through a pre-application process a few months ago. They were invited to submit a complete application. This is a good thing in the EDA process. This is a \$1.2 million infrastructure project, with 50% funded through the EDA grant.

Another thing they are working on with the business park is a Tax Increment Finance (TIF) District, and they have a contractor working on this. The GSM board has asked that they contact the school districts. They have done this and both districts have submitted letters of support for the TIF.

Tom said that the last thing they are working on with regard to the Sunlight Business Park is they have submitted a grant application to Northwest Seed for wind development. Their application was one of four accepted. They have been in contact with them and are currently working on a scope of work. Also, the CREBs process has been extended until the end of this year.

They are working on Core 4 business classes in Whitehall, Boulder and Clancy. This is primarily a business development course that they co-teach with Headwaters.

The Whitehall Affordable Housing project is moving forward. Six applicants have been selected. NAHN is working with the USDA for the mutual self-help program. They are working on infrastructure and tying utilities into the City of Whitehall.

Tom said that he and Tara have been working as community coaches with Horizons in Twin Bridges and Sheridan.

Commissioner Kirsch asked if they can put all new water lines on the south campus. Tom Harrington said that the water lines are new on the south campus, from MDC down to Riverside and over to the Elkhorn Treatment Center have antiquated lines. Commissioner Weber asked Tom if all of the entities that were identified committed to providing funds. Tom said that they got commitments from Riverside, the County, JLDC and discussions are on-going with the others.

Commissioner Weber asked if they can talk about the wind project currently in litigation. Tom Harrington stated that he can't at this time.

#### DISCUSS RETENTION OF METAL MINES GRANT AND LOAN PROGRAM

Commissioner Lythgoe stated that this is something that he asked to be on the agenda. When he looks at the amount of metal mines money that we have and the amount that we have put out towards grants and loans, especially on the south end, realizing that when they started this eight years ago we had over \$700,000 and we currently have \$268,000, he is concerned. He isn't saying that this isn't a good program. The program was meant to create jobs, and when he looks at some of the grants that have been awarded he is not sure how much of that has actually happened. Commissioner Lythgoe stated that number one on his list of priorities for this money is the continued funding of the JLDC. We haven't held the same standards to the north end monies as we have for the south end monies. On the north end we have \$1,359,881 that can be used for a variety of planning and economic development functions. He isn't sure in his own mind that grants are the best use of this money, looking at what we have to look forward to. He is open to discussion however; this is just a concern that he has.

Commissioner Weber said that the south end has benefitted the most by the grants. He understands that it isn't creating jobs and isn't directly tied to economic development in a clear dot-to-dot way. At the same time, with economic development, you have to look beyond the dot-to-dot connections and you have to look at the auxiliary benefits that it provides and how that helps a community to provide economic development. They have been very successful with the auxiliary benefits in Whitehall. He can't give a clear number of what the economic development is, but the auxiliary benefit is that the community is improved. It is hard to weigh, and hard to quantify, but it does exist.

Commissioner Lythgoe said that he can't disagree with that. He would hate to see this money frittered away \$5,000 to \$10,000 at a time and not have the \$150,000 available for major economic development. He has to agree though; the pool is important, the skate park is important, the rodeo grounds and soccer fields are important to the community. He just wanted to bring this up as a point of discussion and hear what others have to say.

Tom Harrington said that he appreciates the concern. The south end has been watching the money decrease, which is one reason that they lowered the amount available. Commissioner Weber is correct, however. The auxiliary benefits, when you look at economic development and the soccer tournaments that come in, the rodeos that come to town, it is hard to quantify the economic benefits to the town. It has created a positive attitude. He saw the positive attitude reflected in the north end when grants became available. Also, when he and Tara travel to other communities and they see what is going on in Jefferson County, they are asking how they can have the same things.

Tom said that the other side of this is that the program was set up for grants and loans. Part of this



is getting paid back. Mountain States Drivetrain started with one person and now has 12 employees with good-paying jobs. Overall he thinks that the program is a good one. As far as the decrease in funds, he feels that they should continue, but at a lower level.

Commissioner Lythgoe said that he has less of a problem with the loan program than he does with the grant program. He can see where that can be extremely beneficial. He also agrees with both Tom and Commissioner Weber in that it does have the added benefit to the community. His concern is the availability of money. We won't be deciding at this meeting, but he would like them to think about this a bit before next week. If Tom feels strongly that things need to stay the way they are, or if they can think of some change, he would like to hear.

Commissioner Lythgoe said that one concern he does have is that with the very first list of grants submitted from Whitehall, the Commission had some problems with and turned some down. The backlash was incredible because the committee had done all the work that they had done, and how dare the Commission turn any of those grants down. He has seen some over the years that he has had a real problem with, but he got the message loud and clear, and out of respect for the committee made the decision that if they came forward with a recommendation he would support it.

Tom said that looking at the last few grant cycles, the Commission has placed some stipulations on the grants. Not to dwell on past history, he thinks the issue before was that this was a new process and there were some folks that were very involved and because of political issues that got involved things were changed. Commissioner Lythgoe thinks the committee felt that rather than being an intermediary thing, if the Commission decided how they wanted to do it, they probably didn't need a committee there. That hurdle has been overcome. There is no doubt in the committee's mind that the Commission has the final say.

Commissioner Lythgoe said that he hopes that if, in fact, the Commission were to have that dialog and quite possibly say no to a grant recommendation, that the committee members wouldn't take it personally which they did out of the chute. He feels that they do have the responsibility to look at the projects closely. Tom broke down distribution of original funds, and said that they really have been pretty frugal with the funds. Commissioner Lythgoe said that the first cycle on the north end gave away \$100,000, which is a pretty significant amount of money. All were good projects, but some limits should be set.

Tom Harrington suggested that the committee members be contacted for comments.

Commissioner Weber said that the loan program has the potential to have those large amounts, but it is tied directly to economic development. The grants are weighted that way, but there is no minimum score. He would suggest adding this to the conversation.

#### DISCUSS AND DECIDE ON MOTTO FOR COUNTY LOGO

Commissioner Lythgoe read submissions from the public for the motto. These were: "History Between the Ridges", "Historic Territory Between the Ridges", "Historic Territory Between the Hustle", "Nature's Courtyard", "Montana Jewel's Scenery", "Wide Open Spaces", "Abundant Lifestyle", and "Convenient Abundant Nature/Lifestyle". Another submission was "No Slogan Needed, Simply the Best Place to Be." The ideas that the Commission came up with were: "the Discovered In-Between", "Heart of Montana", "Montana's Jewel", "Heart of the Treasure

State”, “Moving Forward”, “Looking to the Future” and “Opportunities Abound” and “One of the Originals”.

Tara Mastel said that what you are looking for in any logo or slogan is something that is unique, clear and descriptive. More and more Montana is an urban center; our population is more in the urban centers than in the rural areas. Montana has seven urban centers, and this county is the only one that can truly say that they are between the urban centers. Because of this, she would advocate that the Commission retain the undiscovered in-between. Relative only to Jefferson County’s past is this place discovered; relative to other parts of Montana, Jefferson County is still undiscovered. She feels that “the undiscovered in between” is unique; no other place in the whole state of Montana can say that. Jefferson County is between four urban areas. Tara noted that they actually use the concept all the time in their grant writing. We are between four urban areas, which really says a lot. We have retained the rural flavor that these other places have lost, but we are still close to these areas.

Commissioner Weber stated that we are in the top fifteen counties for population now and are headed to number twelve. It isn’t holding true any more is the problem.

Tom Harrington stated that he likes the discovered in-between. They are always talking about the location in relation to these other population centers. Jefferson County has the uniqueness of being between these four urban areas. He stated that one of the metal mines grants upgraded the Whitehall Community Center. A result of this is that a certain auctioneer keeps coming back to Whitehall to hold his auctions. Tom said that he asked him why he keeps coming to Whitehall, rather than going to Butte or Bozeman. The auctioneer answered that it is the location; he can pull from Butte, Bozeman, Dillon and Helena as all are within the same approximate radius. If he were to go to one of the bigger towns, he would lose the people from the other areas.

Commissioner Weber stated that three years ago, he and Commissioner Lythgoe had the logos on their vests changed to the “discovered” rather than “un-discovered” in between. Was a bit untenable to say that we were undiscovered when we were having 800 to 1000 lots being created a year and people telling us that we are right in the middle of everything.

Commissioner Weber asked Tara if it is preferable to be discovered or un-discovered. Tara said that undiscovered creates some curiosity and interest. There may be other options that could be explored with the “in between”.

Commissioner Lythgoe moved to adopt “the discovered in-between”. Commissioner Kirsch seconded. Commissioner Weber said that he is surprised, but it makes sense. The motion carried.

**RESOLUTION 04-2009 ORDERING CLOSURE AND DISCONTINUATION OF A PORTION OF CLANCY STREET**

The resolution was presented as follows:

**RESOLUTION 04-2009**  
**AN ORDER ABANDONING A COUNTY STREET IN CLANCY**

A petition was filed with the Board of County Commissioners of Jefferson County, Montana (hereinafter, the "Board"), by Bob Marks on the 10<sup>th</sup> day of December, 2008. This petition requested the abandonment of a certain Jefferson County street in an unincorporated town or townsite within Jefferson County, Montana, and being a portion of a street within the original townsite of Clancy, Jefferson County, Montana. The description of the subject County street is set forth as follows:

A portion of Clancy Street, Townsite of Clancy, Montana, more particularly described as follows: Commencing at the North ¼ corner of Section 9, T8N, R3W, P.M.,M., Jefferson County, Montana; thence S 52°23'49" E, a distance of 1599.82' to the POINT OF BEGINNING; thence S 86°14'49" E, a distance of 92.29' along the North line of Clancy Street to the easterly line of the former Great Northern Railroad Right of Way; thence S 10°14'27"W, a distance of 60.39' along the easterly line of the former Great Northern Railroad Right of Way; thence N 86° 14'49" W, a distance of 144.50' along the South line of Clancy Street to the point of curvature of a non-tangent curve on the Frontage Road Right of Way line, concave to the northwest, having a radius of 145.50' a central angle of 33°37'29", and a chord of 84.71' bearing N 48°17'07" E; thence northeasterly along said curve, a distance of 85.39' to the POINT OF BEGINNING; said described tract contains 0.16 acres or 6753 sq. ft.

Pursuant to Title 7, Chapter 14, Part 26, MCA, the Board made a preliminary review of the subject Petition. The Board found that the petition was submitted by all of the landowners affected by street petitioned to be closed within Jefferson County and found that said petition described the particular street or portions thereof to be abandoned, the general route thereof, and the lands and owners affected by the proposed abandonment.

The Board further determined that the consent of the owners of the affected lands was endorsed upon the Petition by their execution of the same and that the Petition set forth the necessity for and advantage of the petitioned action.

Therefore, the Board ordered that the feasibility, desirability, and cost of granting the prayer of the Petition, and the merits or demerits of the proposed abandonment be investigated. In this regard, the Board appointed Commissioner Notbohm and Joe Carter, Road Supervisor, to conduct the investigation. On January 6, 2009, Joe Carter reported that he investigated the merits of the petition and recommended that the petition be granted.

The Board considered the Petition and the findings of Joe Carter's investigation. The Commission approved the closure of said street; hereinafter described:

A portion of Clancy Street, Townsite of Clancy, Montana, more particularly described as follows: Commencing at the North ¼ corner of Section 9, T8N, R3W, P.M.,M., Jefferson County, Montana; thence S 52°23'49" E, a distance of

1599.82' to the POINT OF BEGINNING; thence S 86°14'49" E, a distance of 92.29' along the North line of Clancy Street to the easterly line of the former Great Northern Railroad Right of Way; thence S 10°14'27"W, a distance of 60.39' along the easterly line of the former Great Northern Railroad Right of Way; thence N 86° 14'49" W, a distance of 144.50' along the South line of Clancy Street to the point of curvature of a non-tangent curve on the Frontage Road Right of Way line, concave to the northwest, having a radius of 145.50' a central angle of 33°37'29", and a chord of 84.71' bearing N 48°17'07" E; thence northeasterly along said curve, a distance of 85.39' to the POINT OF BEGINNING; said described tract contains 0.16 acres or 6753 square feet.

The Board found that the granting of the relief sought in the Petition was in the best interest of the County, was both feasible and desirable for the use and benefit of the public, would not cause any increase in costs to the public, and could be done without detriment to the public interest.

Upon such basis, the Board determined that the Petition should be granted and that an appropriate Order should be entered.

Therefore, **IT IS HEREBY ORDERED** as follows:

1. That the Petition of Bob Marks is hereby granted subject to the following conditions:
  - a) that the Petitioner recognize that no owner shall ever claim or attempt to claim that any portion of said street constitutes a "lot" or "parcel", distinct from the owners adjoining lot or property, upon which the separate residence or structure requiring water and sewer facilities can be constructed, and;
  - b) that any utility easements now existing on the right-of-way will be continued unaltered and that access by utility company employees for the maintenance of the equipment shall be allowed, and;
  - c) that Jefferson County shall retain full utility rights, if any.
2. That the portion of the said Jefferson County street which is abandoned by this Order is more particularly described as:

A portion of Clancy Street, Townsite of Clancy, Montana, more particularly described as follows: Commencing at the North ¼ corner of Section 9, T8N, R3W, P.M.,M., Jefferson County, Montana; thence S 52°23'49" E, a distance of 1599.82' to the POINT OF BEGINNING; thence S 86°14'49" E, a distance of 92.29' along the North line of Clancy Street to the easterly line of the former Great Northern Railroad Right of Way; thence S 10°14'27"W, a distance of 60.39' along the easterly line of the former Great Northern Railroad Right of Way; thence N 86° 14'49" W, a distance of 144.50' along the South line of Clancy Street to the point of curvature of a non-tangent curve on the Frontage

Road Right of Way line, concave to the northwest, having a radius of 145.50' a central angle of 33°37'29", and a chord of 84.71' bearing N 48°17'07" E; thence northeasterly along said curve, a distance of 85.39' to the POINT OF BEGINNING; said described tract contains 0.16 acres or 6753 square feet.

**DATED** this 13<sup>th</sup> day of January, 2009.

**ATTEST:**

---

**BONNIE RAMEY**  
**CLERK AND RECORDER**

---

**TOMAS E. LYTHGOE, CHAIR**

---

**KEN WEBER, COMMISSIONER**

---

**DAVE KIRSCH, COMMISSIONER**

Commissioner Lythgoe moved to adopt the resolution. Commissioner Kirsch seconded. The motion carried.

**RESOLUTION 05-2009 ORDERING CLOSURE AND DISCONTINUATION OF AN ALLEY IN BASIN**

The resolution was presented as follows:

**RESOLUTION 05-2009**  
**AN ORDER ABANDONING AN ALLEY IN BASIN**

A petition was filed with the Board of County Commissioners of Jefferson County, Montana (hereinafter, the "Board"), by Ed Betka on the 14<sup>th</sup> day of October, 2008. This petition requested the abandonment of a certain Jefferson County alley in an unincorporated town or townsite within Jefferson County, Montana, and being a portion of an alley within the original townsite of Basin, Jefferson County, Montana. The description of the subject alley is set forth as follows:

A tract of land being a portion of an alley in Block 14, Town of Basin, being situated in the S ½ of Section 17, Township 6 North, Range 5 West, P.M.,M., Jefferson County, Montana, and as shown as Tract A on the attached exhibit, consisting of 1 Sheet hereto and made a part hereof, containing an area of 0.02

acres more or less.

Pursuant to Title 7, Chapter 14, Part 26, MCA, the Board made a preliminary review of the subject Petition. The Board found that the petition was submitted by all of the landowners affected by alley petitioned to be closed within Jefferson County and found that said petition described the particular alley or portions thereof to be abandoned, the general route thereof, and the lands and owners affected by the proposed abandonment.

The Board further determined that the consent of the owners of the affected lands was endorsed upon the Petition by their execution of the same and that the Petition set forth the necessity for and advantage of the petitioned action.

Therefore, the Board ordered that the feasibility, desirability, and cost of granting the prayer of the Petition, and the merits or demerits of the proposed abandonment be investigated. In this regard, the Board appointed Commissioner Kirsch and Joe Carter, Road Supervisor, to conduct the investigation. On January 6, 2009 Joe Carter reported that he and Commissioner Kirsch investigated the merits of the petition and recommended that the petition be granted.

The Board considered the Petition and the findings of the investigation. The Commission approved the closure of alley; hereinafter described:

A tract of land being a portion of an alley in Block 14, Town of Basin, being situated in the S ½ of Section 17, Township 6 North, Range 5 West, P.M.,M., Jefferson County, Montana, and as shown as Tract A on the attached exhibit, consisting of 1 Sheet hereto and made a part hereof, containing an area of 0.02 acres more or less.

The Board found that the granting of the relief sought in the Petition was in the best interest of the County, was both feasible and desirable for the use and benefit of the public, would not cause any increase in costs to the public, and could be done without detriment to the public interest.

Upon such basis, the Board determined that the Petition should be granted and that an appropriate Order should be entered.

Therefore, **IT IS HEREBY ORDERED** as follows:

1. That the Petition of Ed Betka is hereby granted subject to the following conditions:
  - a) that the Petitioner recognize that no owner shall ever claim or attempt to claim that any portion of said alley constitutes a “lot” or “parcel”, distinct from the owners adjoining lot or property, upon which the separate residence or structure requiring water and sewer facilities can

be constructed, and;

b) that any utility easements now existing on the right-of-way will be continued unaltered and that access by utility company employees for the maintenance of the equipment shall be allowed, and;

c) that Jefferson County shall retain full utility rights, if any.

2. That the portion of the said Jefferson County street which is abandoned by this Order is more particularly described as:

A tract of land being a portion of an alley in Block 14, Town of Basin, being situated in the S ½ of Section 17, Township 6 North, Range 5 West, P.M.,M., Jefferson County, Montana, and as shown as Tract A on the attached exhibit, consisting of 1 Sheet hereto and made a part hereof, containing an area of 0.02 acres more or less.

**DATED** this 13<sup>th</sup> day of January, 2009.

**ATTEST:**

---

**BONNIE RAMEY**  
**CLERK AND RECORDER**

---

**TOMAS E. LYTHGOE, CHAIR**

---

**KEN WEBER, COMMISSIONER**

---

**DAVE KIRSCH, COMMISSIONER**

Commissioner Kirsch moved to adopt the resolution. Commissioner Lythgoe seconded. The motion carried.

#### **OPPORTUNITY FOR PUBLIC COMMENT**

Bill Lloyd said that he did set up a meeting with the Warren Mountain Estates residents at 6:30 next Tuesday. Commissioner Lythgoe will be attending the meeting. Bill suggested that the Resolution of Intent to Create the Moonlight Ridge RSID be placed back on the agenda as soon as possible so that the protest period can start again.

Commissioner Weber moved to adjourn. Commissioner Lythgoe seconded. The motion carried.

**MEETING ADJOURNED**

**ATTEST:**

---

**BONNIE RAMEY  
CLERK AND RECORDER**

---

**TOMAS E. LYTHGOE, CHAIR**

---

**KEN WEBER, COMMISSIONER**

---

**DAVE KIRSCH, COMMISSIONER**